

**Committee Member: Diane Clements-Boyd (Chair)**

### **An Analysis of Wealth Inequality in Indiana**

It has been over 50 years since the passage of the 1964 Civil Rights Act, legislation that outlawed discrimination on the basis of race, gender, religion and national origin. Although American society was changed as a result of the landmark legislation, the data reveals that economic disparities on the basis of race persist. According to the Pew Research Center, wealth inequality has widened along racial lines. Fairing the poorest are African-Americans. According to the report, the median net worth for African American households is \$11,000 in comparison to \$141,900 for White households. Current census data for Indiana reports Black unemployment estimated at 10.7% in comparison with White unemployment at 5.1%. In Evansville, Indiana, there are numerous indicators of racial inequality that support the need for further analysis to understand the wealth gap. The indicators include low rates of homeownership and educational attainment to high rates of poverty and mortality for African-Americans.

This report will examine quantitative data, social science research and testimony to better understand the wealth gap in Indiana and the underlying factors that contribute to it. With such overwhelming data indicating that parity and a fair playing field have not been achievable for the majority African-Americans in Indiana, this proposal is being recommended for further review. Moreover, to better understand the dynamics of the wealth disparity for African-Americans in Indiana, an examination is warranted to determine what interventions may be necessary to advance the cause of equal opportunity for all in Indiana.

The Indiana Advisory Committee will seek testimony from interested individuals and agencies familiar with the subject matter. The agencies and organizations include but are not limited to the following: local universities, Indianapolis Urban League, NAACP, Black Chamber of Commerce, and Community Action Agencies.

### *References*

Pew Research Center: Wealth inequality has widened along racial, ethnic lines since end of Great Recession, 2014

American Factfinder: 2011-2013 Community Survey 3-Year Estimates (U.S. Census Bureau)

Evansville Department of Metropolitan Development Report: 2014 Black Household Data

### **Indiana Civil Rights Statute: Equal Opportunity for All?**

The purpose of the Indiana Civil Rights Statute is to promote equal opportunity and eradicate discrimination in the areas of employment, housing, public accommodations and education. Established in 1961, the Indiana Civil Rights Commission (ICRC) enforces the statute. Since 1961, the Commission has grown from a small quasi-governmental entity to the recognized equal opportunity arm of state government. Indiana's civil rights law has evolved since 1961 and ICRC has been strengthened by increased enforcement authority and has added protected classes. While the ICRC became a branch of state government, on the backdrop of

the civil rights movement of the 1960's, the movement for equal opportunity has evolved and has resulted in legal protections being granted to people with disabilities, the aged and sexual minorities.

Most recently, Indiana has been the source of national discussion. Amidst the national firestorm created by Indiana's Religious Freedom Bill, Indiana's legislative body has recently discussed making changes to its civil rights statute. The timing of the infamous bill brought to the forefront the issue of discriminatory animus directed at the LGBT community. This recent occurrence makes further examination of the need to enshrine into Indiana civil right law protections for LGBT imperative.

Further, the Indiana Civil Rights Statute has not been amended to include sexual orientation, gender identity or even age, as protected classes as other states and local jurisdictions have done. The report will examine the extent in which sexual orientation, gender identity and age should be included in the statute to promote equal opportunity for LGBT and the aged.

The Indiana Advisory Committee will seek testimony from interested individuals and agencies familiar with the subject matter. The agencies and organizations include but are not limited to the following: The Indiana Civil Rights Commission, local Human and Civil Rights Commissions, Freedom Indiana, Lambda Legal, ACLU, AARP and the Indiana Department of Labor.

#### *References*

Sabol, David, "Indiana's Civil Rights Commission: A History of the First Five Years" (1994). *Graduate Thesis Collection*. Paper 40.

Committee Member: Chris Douglas

### ***On LGBT Civil Rights:***

Under federal and state laws, it is illegal to say, for example, “You are white, male, and protestant and you are fired” or “You are Catholic, and we refuse to rent to you” or “We don’t serve Middle Easterners here”, but in Indiana, as in most of the States of the United States and under federal law, it is perfectly legal to say: “You are gay and you’re fired” or “ You are lesbians and we don’t serve people like you” or “We don’t rent to faggots.” The vast majority of Hoosiers, along with the vast majority of Americans, feel such discrimination is wrong, but that general sense of the public has not been established in law.

Consequently, LGBT persons once identified as such lose all the rights of citizenship that all other Americans enjoy. Indeed, even suspicion of sexual orientation or transgender status is adequate to eliminate claims to equal protections of the law. This lack of protection also, then, subverts the ability of LGBT persons to participate in the political process, for though their freedom of speech, assembly, and suffrage may be guaranteed, they can lose their jobs, housing, and access to services for exercising their freedoms to promote their equal protection. And so, legal progress toward equal protection of the laws has been slow because those who would benefit from equal protections, and are most motivated to advocate for them, are too often silenced politically by a lack of them.

Indiana’s Constitution is strong in its wording on the topic of equal protection of the law: “The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.” LGBT citizens do not have the privileges and immunities belonging to other classes of citizens.

*[In the following, I am cognizant that we have appointed to the advisory committee a representative of the Friedman Foundation for Choice, which has been the agent of attack on our Public Schools. However, I don’t know how else to address the matter other than head on:]*

### ***On Religious Freedom, Education, and the Voucher Laws***

Due in part to its unique religious mix, the State of Indiana has a strong history of protecting and preserving freedom of religious conscience and of demarcating clear lines between the power of churches and the power of the state, so many of the state’s early settlers having been driven from their homelands by a combination of church and state authority, mutually reinforcing, and corrupting, each other. Indiana’s Constitutional guarantees differ not much today from those established in 1816 and revised in 1851 [emphasis added.]

“All people shall be secured in the natural right to worship ALMIGHTY GOD, according to the dictates of their own consciences... No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience... No preference shall be given, by law, to any creed, religious society, or mode of worship; and ***no person shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry,***

***against his consent... No religious test shall be required, as a qualification for any office of trust or profit... No money shall be drawn from the treasury, for the benefit of any religious or theological institution... No person shall be rendered incompetent as a witness, in consequence of his opinions on matters of religion... The mode of administering an oath or affirmation, shall be such as may be most consistent with, and binding upon, the conscience of the person, to whom such oath or affirmation may be administered... No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever: but for the abuse of that right, every person shall be responsible."***

Likewise, Indiana's Constitution on the topic of education established clear mandates:

***"Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all... The principal of the Common School fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of Common Schools, and to no other purpose whatever."***

In contrast to Germany, Southern Europe, and England, where Lutheranism, Catholicism, and Anglicanism supported the power of the state, and derived their financial strength in part from taxation, and in contrast to some American colonies and states, Hoosiers established immediately that there would be no support rendered to religion through the powers of taxation, for that support could only come at the expense of conscience. . In the Constitution of 1851, the majority of Hoosiers voted down an attempt to make Indiana formally a Christian state. And Hoosiers established public school systems up to university levels which in a few decades surpassed the most ancient and illustrious academies of Europe in science, medicine, and industry. Further, while murderous antipathies fulminated in Europe amidst religiously segregated schools, and except by the design of some Catholics, Lutherans and Episcopalians to to self-segregate in Indiana, Hoosiers of every religion intermingled in Common Schools and Hoosiers looked in astonishment at the religious hatreds and blood baths in the Old World which had become alien to civil life in Indiana.

Together, the Constitution of the State of Indiana, in its word, spirit, history and intent, proscribes money from Common Schools being directed to any other purpose, and proscribes any Hoosier from being compelled to support any place of worship or to maintain any ministry against his consent and proscribes any money from being drawn from the treasury for the benefit of any religious or theological institution. Written into the Constitution, these were bedrock principles of civil society in Indiana, and they produced thriving religion and generally honest government, each free from the corruptions of the other, as well as the domestic tranquility associated with people of every faith attending school together that mutual tolerance might form.

But today, with the passage of the Voucher laws, our Bill of Rights has been undone as if by a crooked accountant; a book-length Bill of Rights apparently required in order to ensure that the

protections that Hoosiers thought they had made so explicit in such elegant form might be preserved from the very hands they thought they had successfully contained. The Indiana State Constitution is ignored, the levers of government and of the courts seized by those who have no historic sympathy for constraint upon state-backed religious power; Hoosiers now taxed to support religious instruction with which they do not agree; Common Schools circumvented and religious segregation promoted and funded in spite of its cancerous effect everywhere else in the world; and free interchange of thought and opinion suppressed in religious instruction, rather than promoted in true public education.

Committee Member: Leslie Davis Hiner

**#1. Project proposal to study the civil rights implications of children with disabilities in grades K-12 whose services to which they are entitled under The Individuals with Disabilities Education Act (IDEA) \* are denied, delivered only partially, delivered incorrectly, or assigned in a manner that does not benefit the child.** This project would include a study of bullying and harassment of children with disabilities, and whether such abuse rises to a level that denies the child's civil rights under IDEA. This project would also include examination of the financial disadvantage of parents of children with disabilities who cannot afford to hire legal counsel to enforce the child's rights under IDEA, and whether the tremendous disparity that exists between the parent and a school corporation with regard to the ability to access legal representation is, in itself, a violation of a child's civil rights under IDEA.

As one advocate for children with disabilities stated, "I rarely file complaints and even more rarely advise parents to file complaints. Why?

Because in most cases, there is no real legitimate remedy, even when the school is found to be in violation." Pat Howey, at <http://bit.ly/1DsAy9N>

And this from an online disability news source: "Federal education officials are fielding an increasing number of complaints related to disability discrimination in the nation's schools. More than 3,900 complaints based on disability were filed with the U.S. Department of Education's Office for Civil Rights during the 2014 fiscal year, the most recent period for which statistics are available." <http://bit.ly/1xBYfNF>

As stated in a "Dear Colleague" letter to schools from Catherine E. Lhamon, Assistant Secretary for Civil Rights the US Dept of Education Office of Civil Rights, "In recent years, the Office for Civil Rights (OCR) in the U.S. Department of Education (Department) has received an ever-increasing number of complaints concerning the bullying of students with disabilities and the effects of that bullying on their education, including on the special education and related services to which they are entitled." <http://1.usa.gov/1t3UBYs>

"If parents disagree with the school, they have little recourse. They can initiate a due process legal proceeding in which they have the burden of proving their case by the weight or preponderance of the evidence. In these hearings parents are at a huge disadvantage. School districts have all of the power: They have knowledge of complex special education law, access to staff attorneys and outside counsel; they employ the teachers, therapists and educational experts responsible for the IEP; and they have full access to records, instructional materials and placement options — including how other children have fared at them.

In stark contrast, parents have limited resources, limited knowledge of their options and limited access to witnesses and information. Most cannot afford attorneys or the experts needed to prove their case. They may be denied access to placements, instructional materials, lesson plans and other vital information, and they are often subjected to aggressive tactics by school district attorneys. They are routinely placed in the untenable position of having to ask teachers to testify against the wishes of their supervisors. Given all of the obstacles they face, it is no surprise that in Maryland, parents lose more than 90 percent of these disputes. School systems have won cases despite putting on little or no evidence that the IEP meets the standard of a free, appropriate

public education. In the end, when school districts prevail — not on the merits of the case but because of the parents' inability to meet the burden of proof — the children lose.” *Baltimore Sun*, <http://bsun.md/1ARLkVA>

\*including Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II).

**#2. Project proposal to “examine the civil rights implications of the so-called “School-to-Prison Pipeline.”** Specifically, the Committee proposes to examine the extent to which the application of school disciplinary and juvenile justice policies in the State of [Indiana] may have a discriminatory impact on students on the basis of race, color, disability status, and/or sex—leading to a disproportionate incidence of law enforcement contact and criminal, rather than administrative, penalties for students of color, males, and students with disabilities.” \*

The Center for Public Integrity released a report this month comparing the incidence of black, Hispanic, and white children and children with disabilities being referred to law enforcement. Indiana ranks #37, better than most states, however, children with disabilities have the highest rate of law enforcement referral, at 8.3%. While this is lower than the national 10.9%, this means that over 12,700 children in Indiana are effected (8.3% of children receiving special education in public schools). <http://bit.ly/1ax2GhQ>

\*As stated in a similar proposal considered by the Oklahoma State Advisory Committee to the U.S. Commission on Civil Rightsfile:///C:/Users/leslie/Downloads/2015-288-126232\_school%20to%20prison%20pipeline%20project%20proposal\_(2015-04-02-01-33-44).pdf

Committee Member: Ellen Wu

### **Indiana's South Asian American community, civil rights, and reproductive rights**

I propose a fact-finding hearing to gather information and data on the civil rights and reproductive rights impact of the Purvi Patel case on Indiana's South Asian American communities. The hearing would also be useful to understanding broader issues of concern among this minority population, including access to health care and legal assistance, safety, and immigration.

The recent conviction of South Bend resident and immigrant Purvi Patel to a twenty year prison term under Indiana's feticide laws for a stillbirth is an issue of deep concern in Indiana's South Asian American community. Patel, 33, is the first woman in the United States to be charged, convicted, and sentenced on feticide charges. Asian Americans in Indiana and around the country have expressed great worry, not only about the unduly harsh nature of Patel's treatment by the state but also about the broader implications of the Patel decision. Many can imagine themselves or their daughters in the same situation as Patel. Others have pointed out that Patel plays an instrumental role in supporting her multi-generational family as a breadwinner and caregiver. They acknowledge the unwillingness of some in the ethnic community to discuss openly sex-related topics and other sensitive issues, but they emphasize their collective yearning for more readily accessible health care and legal services.

Asian American observers have also pointed to an earlier 2011 case in which Indiana also attempted to convict Chinese immigrant Bei Bei Shuai on similar charges. Some see this as a disturbing indication that women of color and immigrant women in Indiana might be disproportionately targeted in feticide cases.

Here are links to recent articles that discuss this issue, particularly from South Asian American perspectives:

*India Abroad*, April 20, 2015

[http://www.indiaabroad-digital.com/indiaabroad/20150410?sub\\_id=sDwegS2jCDf0&folio=A5#pg5](http://www.indiaabroad-digital.com/indiaabroad/20150410?sub_id=sDwegS2jCDf0&folio=A5#pg5)

*First Post*, April 17, 2015

<http://www.firstpost.com/world/media-sensationalism-bad-defence-purvi-patels-foeticide-case-sparks-debate-among-indian-americans-2200946.html>

*RH Reality Check*, February 2, 2015

<http://www.firstpost.com/world/media-sensationalism-bad-defence-purvi-patels-foeticide-case-sparks-debate-among-indian-americans-2200946.html>

I have spoken with Ami Ghandi, Executive Director of the Chicago-based organization South Asian American Policy and Research Institute (SAAPRI) regarding the implications of the Patel case on Indiana's South Asian communities. SAAPRI has been doing on-the-ground outreach



with this population. (Note that the population itself is very diverse in terms of immigration status, class, profession, religion, age, and political leanings.) Ghandi explains: “Many communities, from Fort Wayne to Indianapolis to Evansville are looking for greater responsiveness from elected officials on issues including civil rights, immigration, immigrant and refugee integration, health care access, reproductive justice, safety, small business ownership, employment discrimination, xenophobic and/or anti-Muslim rhetoric, and even climate change.”

Ghandi notes the importance of taking into consideration the specific struggles and challenges that Indiana’s South Asian American face. “Many of the same social issues we see among South Asians in bigger cities like NYC and Chicago are also taking place in Indiana—sometimes intensified because there is usually not a feeling that people can speak out if treated unfairly based on real or perceived race, religion, national origin, immigration status, or other characteristics. Furthermore, social service organizations such as Indo-American Center and Apna Ghar have clients who live in Indiana and come to Chicago for services because of insufficient culturally and linguistically appropriate resources in their own areas.”

In our communication, Ghandi has expressed enthusiasm for a timely hearing, investigation, or report that might analyze fetalicide laws and reproductive rights and their impact on women of color and other vulnerable populations such as immigrant communities. I agree, and I hope that the Commission will take on this project.

## School To Prison Pipeline

The school to prison pipeline describes the overuse of discipline in schools as early as pre-kindergarten. The pipeline results from the choice of punishment over education. Many forces drive the pipeline; ranging from zero tolerance policies to insufficient staff and resources to high stake testing demands. One of the most disturbing trends is the use of police in schools as resource officers who arrest students for disciplinary infractions best handled by teachers and administrators. This pipeline has a decidedly racial component as many studies show that African American and Latino students receive harsher discipline for comparable infractions to those committed by their white and Asian counterparts. This well documented racial disparity bring this issue into the jurisdiction of the SAC for investigation in Indiana. The Indiana SAC should investigate the nature and extent of this phenomenon in Indiana to report this to the U.S. Civil Rights Commission.

### Organizational Resources:

ACLU

NAACP LDF

National Council of Juvenile and Family Court Judges - Tippecanoe Superior Court

Children's Policy and Law Initiative of Indiana

National Juvenile Justice Network

The Equity Project at Indiana University

### References:

<http://www.theindianalawyer.com/re-routing-the-school-to-prison-pipeline/PARAMS/article/35456>

<http://www.pbs.org/wnet/tavisismiley/tsr/education-under-arrest/school-to-prison-pipeline-fact-sheet/>

<https://www.aclu.org/school-prison-pipeline>

<http://wishtv.com/2015/02/05/experts-worry-suspensions-create-school-to-prison-pipeline/>

<http://www.indiana.edu/~equity/projects.php>

<https://vimeo.com/87274446>

<https://www.youtube.com/watch?v=4FCGUaOKRks>

[http://www.indiana.edu/~atlantic/wp-content/uploads/2014/12/Acknowledging-Race\\_121514.pdf](http://www.indiana.edu/~atlantic/wp-content/uploads/2014/12/Acknowledging-Race_121514.pdf)

**Committee Member: Rick Garnett**

## **Capital Punishment in Indiana**

I'd like to propose that our Committee take up the issue of capital punishment in Indiana and, specifically, focus on the racial (and other) disparities involved, with an eye toward recommending abolition.

This document provides helpful information, for those Committee members who are not already familiar with it, about capital punishment in Indiana:

[http://www.in.gov/ipdc/public/dp\\_links/indianadpfactsheet.pdf](http://www.in.gov/ipdc/public/dp_links/indianadpfactsheet.pdf)

Of particular interest to our Committee, I think, might be the following:

### **RACE AND THE DEATH PENALTY IN INDIANA**

ρ A 2002 study conducted for Gov. O'Bannon found that offenders who kill White victims are more likely to be sentenced to death than offenders who kill non-White victims. The research team indicated that additional research and analyses would help determine whether race-neutral case factors are responsible for this apparent disparity, or whether similar defendants convicted of similar murders are in fact treated differently based upon the race of their victims. No further findings have been released.

ρ Of the 20 men executed in Indiana since the death penalty was re-enacted in 1977, only one was convicted and sentenced for killing a non-white victim.

ρ Death penalty proponents often suggest the reason that such a small percentage of death penalty cases involve African-American victims is that African-Americans make up a small percentage of the population. However, in 2007, researchers working as part of the ABA Indiana Death Penalty Assessment looked at all murders committed in Indiana from 1980 – 2000 and determined that the breakdown was nearly equal, with 53% of all murders involving white victims, and 47% involving minority victims. The breakdown was much less even with respect to murders from that same period which resulting in death sentences. White victims were involved in 84% of cases resulting in death sentences, with only 16% involving non-white victims.

	White Victims	Non-White Victims
All Homicides	53%	47%
Homicides resulting in death sentences	84%	16%

ρ These same researchers identified race-neutral factors that affected the likelihood of a death sentence, so that they compared similar cases and were able to isolate the impact of race. They found that during this time in Indiana, the odds of a death sentence among homicides with a similar level of aggravation were 16 times higher for cases where Whites were suspected of killing Whites than are the odds of a death sentence for cases in which Blacks are suspected of killing Blacks. They also found that the impact of race was lessened as more aggravating factors were present, and greater in cases that are less aggravated and present a closer case for prosecutors and jurors. The presence of White victims always places a thumb on the scale in

favor of death, but that thumb has less impact when it is surrounded by weighty aggravating factors.

It strikes me that one of the things to be said in favor of this topic is that it is one that has the potential to have bipartisan and even nonpartisan appeal: Many "conservatives" are growing to question capital punishment -- especially in light of revelations about faulty procedures and excessive costs -- just as many "liberals" do. I would think that consensus on the Committee would be easier to achieve on this topic, or one like it, than on some others. (Some of us, for example, strongly support school vouchers while others are strong critics.) While the death penalty itself is, the Supreme Court has repeatedly affirmed, constitutionally permissible (when carefully regulated), the facts about racial disparities seem to me to bring this issue within our Committee's mandate.

**Committee Member: Tammi Davis**

**Concept: School to Prison Pipeline/Education Financing**

According to the American Civil Liberties Union, the "school-to-prison pipeline" refers to the policies and practices that push our nation's schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems. This pipeline reflects the prioritization of incarceration over education, punishment over encouragement and corporate prisons over education reform. Additionally, one could argue that it serves as a feeder to keep the prisons filled.

There has been many claims that prisons use third grade reading scores to estimate the future population of and the need for prisons. Although this statement has not been confirmed, what has been determined is a link between literacy rates, high school dropout rates and incarceration rates according to a 2009 study, *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Taxpayers*, conducted by the Center for Labor Markets at Northeastern University.

By researching Indiana's policies and practices concerning the School to Prison Pipeline, we will also uncover how school funding and the lack thereof, which includes resources to various school/city populations, plays a role in supporting the pipeline; the impact that incarceration has on one's ability to be active citizens and participate in such activities like voting and how the pipeline leads to other social and economic development challenges, which include the unemployment and underemployment of exoffenders that ultimately lead to an increased recidivism rate. According to a study released by The Sentencing Project, young black and Latino males tend to be punished more severely than their white counterparts or black and Latino males of a different age because they are perceived to be particularly dangerous and problematic. The NAACP's Legal Defense Fund researched the School to Prison Pipeline and concluded that "African-American students overall are now nearly three times as likely to be suspended, and Latino students are nearly one-and-a-half times as likely to be suspended, as their white peers."

Resources attached.